

**CITY OF GUSTAVUS, ALASKA
ORDINANCE FY24-06**

**AN ORDINANCE FOR THE CITY OF GUSTAVUS PROVIDING FOR THE
AMENDMENT OF CITY ORDINANCE TITLE 3-PERSONNEL CHAPTER 3.05 – EMPLOYEE
BENEFITS, SECTION 3.05.010 – CITY OF GUSTAVUS BENEFITS POLICY, SECTION
3.05.020 - HOLIDAYS**

BE IT ENACTED BY THE GUSTAVUS CITY COUNCIL AS FOLLOWS:

- Section 1. Classification. This ordinance is of general and permanent nature and shall become a part of the City of Gustavus Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and its application to other persons, or circumstances shall not be affected thereby.
- Section 3. Enactment. Now therefore, it is enacted by the Gustavus City Council that Title 3-Personnel be amended as follows:

~~Strikethrough~~ words indicate deleted and **underlined** words are additions.

Chapter 3.01 - GENERAL PROVISIONS AND DEFINITIONS

Section 3.01.010 - Statement of purpose.

- (a) It is the purpose of this title to establish a system of personnel administration based on merit and professional methods of recruitment, selection, employment, promotion, transfer, removal, and discipline of personnel, both employed and voluntary, and to establish other conditions of employment with the City of Gustavus. Toward that end, the city intends:
- (1) To recruit, select, advance and compensate employees on the basis of merit and relative qualifications, ability, knowledge and skills, including open consideration of qualified applicants for appointment;
 - (2) To assure fair treatment in all aspects of personnel administration without regard to political affiliation, race, color, national origin, age, sex, sexual orientation, gender identity, religion, marital or veteran status, ancestry, disability or other legally-protected status;
 - (3) To provide employment subject to the city's need to accomplish work, availability of funds, and continued effective performance and acceptable conduct of the employees;
 - (4) To enable efficient work by all city employees through personnel administration, with systems for assigning employee duties, responsibilities and authority, job-related training, supervision and performance appraisal, appropriate compensation including pay and benefits, and recognition for exceptional service; and
 - (5) To inform employees of their rights, benefits and responsibilities.

Section 3.01.020 - Definitions.

- (a) *Department*: An administrative or functional division of the municipality established by ordinance.
- (b) *Discharge*: The involuntary employment termination initiated by the city.

- (c) *Employee*: A person working for the city for wages or salary in a regular or temporary position.
- (d) *Exempt position*: Exempt positions are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act.
- (e) *Grievance*: Any dispute initiated by an employee or a group of employees involving the interpretation, application or alleged violation of any section of this title, except for disputes that are expressly excluded from the grievance procedure.
- (f) *Layoff*: The involuntary employment termination initiated by the city council for non-disciplinary reasons.
- (g) *Nonexempt position*: Nonexempt positions are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act and similar State of Alaska law.
- (h) *Overtime*: Any time worked by a nonexempt employee in excess of forty (40) hours per week.
- (i) *Position*: A group of duties and responsibilities that require the services of an employee on a part-time or full-time basis.
- (j) *Position description*: A position description (PD) is a structured document assigning work to a given position as it is expected to be performed after customary orientation and training. It identifies the typical duties and responsibilities of the position, including the typical education, training and skills required to perform the typical duties and responsibilities of the position. It also describes how the position relates to other positions within and outside the department. The PD will describe the permanent duties and responsibilities that are assigned to and performed by the position; however, PDs are not intended to cover every kind of work assignment a position may have. Rather, PDs cover those work assignments that are predominant, permanent and recurring. Position descriptions will be the basis for employee performance evaluations.
- (k) *Regular position*: A regular position is a full-time (forty (40) hours per week, or two thousand eighty (2,080) hours per year) or a part-time (less than forty (40) hours per week, or less than two thousand eighty (2,080) hours per year) year-around position. Actual work hours each week may vary with season or with work load. Employees holding regular positions may qualify for or access City of Gustavus benefit programs.
- (l) *Resignation*: The voluntary separation from city employment initiated by an employee.
- (m) *Supervisor*: The mayor, city administrator, or an employee in a regular position whose position description includes specific supervisory duties or who has been assigned supervision of temporary employees for a specific project or function.
- (n) *Temporary position*: A temporary position is one in which an employee is hired as an interim replacement, or to supplement temporarily the work force on a seasonal or other basis, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employees in temporary positions are not eligible for City of Gustavus benefits programs.
- (o) *Termination*: An involuntary separation by the city of an employee from city employment due to reductions in force due to budgetary considerations; or, an involuntary disciplinary separation by the city of an employee from city employment.
- (p) *Volunteers*: Volunteers are individuals providing services or labor to the city for no compensation and who are not entitled to any pay or benefits. Gustavus Volunteer Fire Department firefighters and emergency medical responders on a current roster are volunteers; however, they may be entitled to workers' compensation insurance coverage.
- (q) *Workplace*: Any premises owned, leased, or otherwise managed by the City of Gustavus, including, but not limited to, real property, rights of way, easements, facilities, buildings, rooms, vehicles and equipment, used for the performance of city work by city employees.

Section 3.01.030 - Severability.

If any section or subsection of this title shall at any time be illegal or unenforceable, the remaining provisions shall not be affected thereby and shall remain valid and enforceable to the extent permitted by law.

Chapter 3.02 - BASIC EMPLOYMENT PROVISIONS

Section 3.02.010 - At-will employment.

The City of Gustavus is an "at-will" employer.

Section 3.02.020 - Equal employment opportunity.

- (a) In order to provide equal employment and advancement opportunities to all individuals, employment decisions of the City of Gustavus will typically be based on merit, qualifications, and abilities. The City of Gustavus shall not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or on any other basis that is prohibited by federal, state, or local law.
- (b) This policy governs all aspects of employment including selection, job assignment, compensation, discipline, termination, and access to benefits and training.
- (c) An employee may not be discharged, threatened or otherwise discriminated against regarding the employee's compensation, terms, conditions, location, or privileges of employment for reporting suspected or actual discrimination governed by (a) and (b) of this section.
- (d) An employee may not be discharged, threatened or otherwise discriminated against regarding the employee's compensation, terms, conditions, location, or privileges of employment for any reason outlined in AS 39.90.100 regarding protection for whistleblowers.
- (e) Although employment decisions may be based on merit, qualifications, and abilities, employment with the City of Gustavus remains at all times at-will employment.

Section 3.02.030 - Hiring of relatives.

- (a) No persons may be employed in a position supervised by a relative. If an employee and the employee's supervisor should marry or enter a relationship similar to marriage, they shall elect which employee may continue with the department and which employee shall terminate or transfer.
- (b) For the purpose of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

Section 3.02.040 - Immigration law compliance.

- (a) The City of Gustavus is committed to employing only United States citizens and aliens who are authorized to work in the United States.
- (b) In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility.

Chapter 3.03 - RECRUITMENT PROCEDURES

Section 3.03.010 – Position vacancies and publicity.

- (a) In order to attract an adequate number of candidates for present or anticipated vacancies and to ensure that present employees are informed of opportunities to apply for vacant positions, the mayor, or the mayor's designee, will publish or post notice of position vacancies as follows:
 - (1) Position vacancy announcements shall be posted in at least three (3) public places within the City of Gustavus, to include the council chambers, for a minimum of ten (10) days.
 - (2) At the mayor's discretion, positions may also be advertised by using any, or any combination of, state or other employment services, or by using any print or electronic media including but not limited to newspapers and relevant professional or trade publications.
 - (3) All position vacancy notices shall include at least the following:
 - (A) The position title, employment category, essential responsibilities, job qualifications and requirements, the time, place and manner of completing applications, the application deadline, pay rate or salary range, employment category, and other pertinent information.
 - (B) Notice that all positions are located within the City of Gustavus and all work will be conducted in the City of Gustavus, unless the employee is on an authorized business or training trip or is authorized to conduct business while on approved absence.
 - (C) An equal opportunity statement.
 - (D) A statement that reasonable accommodation to facilitate the submission of an application is available on request.
- (b) Publicity for all position vacancies shall be conducted for a sufficient period of time to ensure reasonable opportunity for persons to apply and to be considered for employment. Position vacancies shall be formally announced for at least ten (10) working days prior to the closing date for filing applications. The position may remain open until a qualified candidate is found.

([Ord. No. FY15-04, § 3, 8-11-2014](#))

Section 3.03.020 - Employment application form.

- (a) To ensure consistency and completeness in the application process, all applicants for employment in regular positions with the City of Gustavus will fill out the City of Gustavus Employment Application Form, adopted and amended by motion by the city council.
- (b) All advertisements and postings of vacant positions shall contain a position description or provide directions for obtaining a position description.
- (c) Application forms shall not elicit any information concerning race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or any other information that is prohibited by federal, state, or local law.
- (d) Persons who for reasons of physical or mental disability are unable to complete the application in its regular form, may request reasonable accommodation in the application process.

Section 3.03.030 - Certification statement.

To be considered for employment, an applicant must include, as part of the applicant's application for employment, a signed and dated certification that states as follows:

I certify that the information I have entered on this form is true and complete to the best of my knowledge. I have read and understand the position description for this job, a copy of which is attached to and made a part of this application. I believe that I am qualified to assume and perform the duties and responsibilities of this position. I understand that if I deliberately conceal or enter false information on this form, that I may be removed from my job; that nothing contained in this employment application or in the granting of an interview is intended to create a contract between me and the City of Gustavus for either employment or the provision of any benefits; that information in this application will become part of the public record; and that for the purpose of this certification, a photocopy of my original signature shall have the same force and effect as my original signature. I hereby authorize the City of Gustavus, or its agents, to contact the references I provided as part of this application to obtain additional information relevant to my position-related background, education, skills and abilities. I understand that, prior to making any offer of employment, the City of Gustavus may request my authorization to conduct a confidential background check to obtain additional information relevant to this employment application.

Chapter 3.04 - EMPLOYMENT STATUS AND RECORDS

Section 3.04.010 - Employment categories.

The City of Gustavus recognizes the following categories of employment:

- (a) *Nonexempt or exempt.* Each position is designated as either nonexempt or exempt from federal and state wage and hour laws. Nonexempt positions are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act. Exempt positions are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act and any similar State of Alaska law. A position's exempt or nonexempt classification may be changed only upon written notification by the Mayor of the City of Gustavus and after first confirming compliance with federal and state law.
- (b) *Regular or temporary.* In addition to the above categories, each employee will belong to one (1) of the following employment categories:
 - (1) *Regular position.* A regular position is a full-time or a part-time year-around position. Actual work hours each week may vary with season or with work load. Employees holding regular positions may qualify for or access City of Gustavus benefit programs. An employee entering a regular position for the first time with the city must complete a probationary period, after which the employee may be eligible for the City of Gustavus benefit programs as set forth in the City of Gustavus Benefits Policy, as amended. Completing a probationary period only impacts an employee's eligibility for benefits and does not alter his or her status as an employee at-will.
 - (A) *Regular full-time.* A regular full-time position is one in which the work required is expected to constitute forty (40) hours per week, or two thousand eighty (2,080) hours per year.
 - (B) *Regular part-time.* A regular part-time position is one in which the work required is expected to constitute fewer than forty (40) hours per week, or fewer than two thousand eighty (2,080) hours per year.
 - (2) *Temporary position.* Employment assignments in this category are of limited duration. A temporary position is one in which an employee is hired as an interim replacement, or to supplement temporarily the work force on a seasonal or other basis, or to assist in the completion of a specific project. Employment beyond the initially stated period, which first must be approved in writing by the mayor, does not in any way imply a change in employment status.

While temporary employees receive all legally-mandated benefits (such as workers' compensation insurance and social security), they are ineligible for all the other benefit programs offered by the City of Gustavus.

- (c) The employment categories set forth in this section do not guarantee employment for any specified period of time. No employee shall have any right to continued employment in any particular position. The city council may, in its sole and exclusive discretion, eliminate any position for any reason including, but not limited to, lack of work, lack of funds, departmental reorganization, or reassignment of duties.

Section 3.04.020 - Position descriptions.

- (a) The City of Gustavus will prepare and maintain current position descriptions for all regular full-time and regular part-time positions to aid in orienting new employees to their jobs, identifying the requirements of each position, establishing appropriate compensation levels and hiring criteria, and setting standards for employee performance evaluations.
- (b) The mayor and/or city administrator will prepare, subject to council approval by motion, position descriptions for all regular full-time and regular part-time positions.
- (c) The mayor and/or the city administrator will review all position descriptions at least annually to determine whether they are current and reflect the existing needs of the city. Further, the mayor will review the position description of any vacant position to determine whether it is current and reflects the existing needs of the city prior to recruiting to fill that vacancy. The mayor and/or city administrator will prepare, subject to council approval by motion, any revisions to position descriptions.
- (d) A position description will include the following:
- (1.) Elements of the position description:
- Position title;
 - Exempt or nonexempt under Fair Labor Standards Act;
 - Based at (city department or functional unit);
 - Position reports to;
 - Position purpose summary (ideally one (1) sentence);
 - Essential duties and responsibilities;
 - Supervisory responsibilities (if any);
 - Hours of work;
 - Required or desired minimum qualifications (education, training, experience, specific abilities or skills, etc.);
 - Special requirements (licenses, certificates, endorsements, etc.);
 - Physical demands (including tools used);

(2.) Work environment:

(A) Description of typical work environment for the position.

(B) The typical location(s) in the City of Gustavus where the work will take place.

The examples of duties and responsibilities included in this position description are intended only as illustrations of the various types of work typically performed. The omission of specific statements of duties and responsibilities does not exclude them from the position if the work is similar, related or a logical assignment to the position. This position description does not constitute an employment agreement between the City of Gustavus and an applicant for the position or an employee holding the position. The position description is subject to change by the City of Gustavus, in its sole discretion, as the needs of the city and requirements of the position change.

Section 3.04.030 - Probationary period for regular positions.

- (a) The probationary period provides new and newly-transferred or promoted employees with an on-the-job orientation and training period. During the probationary period, the mayor and/or city administrator and the supervisor will review, guide, direct, provide necessary on-the-job orientation and training, examine, evaluate and monitor the conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness of the probationary employee to determine whether the employee is fully qualified for employment in the position to which the employee has been appointed.
- (b) Length of probationary period.
 - (1) The probationary period for a regular position is typically six (6) calendar months; however, the actual length of the probationary period shall be set by the mayor/city administrator with the supervisor in writing at the time of employment and shall be based upon an assessment of the employee's qualifications for and readiness to assume the full duties and responsibilities of the position. Probationary period may be shortened if, in the opinion of the Supervisor, City Administrator, and Mayor the employee has satisfied the purpose of probation.
 - (2) If the mayor/supervisor determines that the designated probationary period does not allow sufficient time to evaluate thoroughly the employee's performance, the mayor/supervisor, in his/her sole discretion, may extend the probationary period once, in writing, for a specified period not to exceed three (3) months.
- (c) At the conclusion of the initial or the extended probationary period, the mayor/supervisor will prepare a written evaluation of the employee's performance in the position.
 - (1) If at any time during the probationary period the mayor/supervisor determines that the employee does not satisfactorily meet the requirements of the job for any reason, the city may terminate the probationary employee from that position.
 - (2) If the employee satisfactorily meets the requirements of the job, the mayor will provide written notice to the employee that the employee has successfully completed the probationary period.
- (d) Although the City of Gustavus imposes a probationary period for purposes of training and evaluation, the city remains at all times an "at-will" employer.

Section 3.04.040 - Personnel files.

- (a) The City of Gustavus will maintain a personnel file on each employee. The personnel file will include such information as the employee's job application form, position description(s), records of training, documentation of performance appraisals and wage adjustments, timesheets and payroll records, and other employment records.
- (b) Personnel files are the property of the City of Gustavus and are considered confidential to the extent allowable by law. Accordingly, the city shall restrict access to an employee's personnel file to the mayor, the employee's direct supervisor, the employee accessing his or her own personnel file, the city's legal counsel, and the city treasurer. The restriction on access to personnel files does not apply to a proper public information request for the pay rate of employees. The city will comply with court orders, subpoenas, and releases that compel the release of information from an employee's personnel file.
- (c) With reasonable advance notice, an employee may review and make copies of their own personnel file within city hall in the presence of the mayor or the city clerk.

Section 3.04.050 - Employment reference inquiries.

Only the mayor or city administrator may respond to those reference inquiries submitted in writing; the city's response will also be in writing. Unless a written waiver form allowing the

release of personnel file information is received from a former employee, responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held.

Section 3.04.060 - Personnel data changes.

It is the responsibility of the employee, including those on leave without pay status, to promptly notify the city of any changes in personal data, such as: Personal mailing addresses, telephone numbers, individuals to be contacted in the event of emergency, educational accomplishments, training certificates, and similar information.

Section 3.04.070 - Performance evaluation of regular position employees.

- (a) The city council shall establish and amend, from time to time, by resolution, a written policy and procedure for performance evaluations of regular position employees.
- (b) The city will utilize an employee performance evaluation program to assist the City of Gustavus in maintaining the highest quality employees and highest quality performance. The city's employee performance evaluation program will provide for regular and routine evaluation by the mayor or employee's direct supervisors if other than the mayor, of employee performance of position duties and responsibilities and to provide a vehicle for communication between employees and their supervisors regarding job performance, including discussion of needs and means for improving work performance. Performance evaluations shall also be considered in decisions affecting merit-based salary or wage increases, promotions, demotions, dismissals, order of layoff, order of reemployment, placement and training needs.
- (c) Employees in regular positions shall be evaluated by the mayor, or the employee's immediate supervisor if other than the mayor. Any recommendations for bonuses or merit-based salary or wage raises or change of status will be brought before the city council for consideration in the next budget cycle.
- (d) All performance evaluations shall be in writing in a format approved by the city council, with one (1) copy given to the employee when the supervisor schedules an appointment to discuss the evaluation, and one (1) copy to be placed in the employee's personnel file. Each employee's performance shall be evaluated at the following periods:
 - (1) Prior to end of probationary period. Each employee appointed to a regular full-time or regular part-time position will be evaluated at least once during the probationary period. The employee must have an overall evaluation of at least "satisfactory" at the conclusion of the probationary period in order to continue employment in a regular position with the City of Gustavus.
 - (2) Annual. Each employee in a regular full-time or regular part-time position shall receive an annual performance evaluation on or close to their anniversary date of hire or promotion.
- (e) The conduct of performance evaluations by the City of Gustavus does not restrict, limit, or otherwise change the at-will employment status of each City of Gustavus employee. Evaluations do not guarantee a cost-of-living adjustment, wage increase, step increase, or bonus of any kind.
- (f) Employees who receive an overall rating of "unsatisfactory" on any aspect of their annual or special evaluations may be subject to measures that the city deems necessary or appropriate to ensure that employees meet or exceed standards required for that position. Such measures may include demotion or termination based on an inability to satisfactorily perform the necessary and essential functions of the position.
- (g) An employee may submit written comments responding to that employee's performance evaluation. Such comments shall be submitted to the evaluating supervisor within five (5)

city business days from the date of the employee's evaluation review. Such comments shall be attached to, and included with, the performance evaluation in the employee's personnel file.

- (h) Performance evaluations shall not be subject to the grievance procedure. An employee may file a grievance if he/she believe the evaluation procedure has not been followed in accordance with the Policy and Procedure for a Regular Position Employee Performance Evaluation. In addition, an employee may file a grievance if he/she believes an issue exists which is provided in Section 3.08.100 – Grievance Procedure.
- (i) Special. In addition to an employee's annual performance evaluation, the mayor or the employee's direct supervisor, if other than the mayor, may complete a special performance evaluation whenever there is significant change in the employee's performance, or at any other time for any other reason deemed sufficient by the mayor or the employee's direct supervisor. Special evaluations are subject to the provisions of Sections 3.04.070(a) through (f).

Chapter 3.05 - EMPLOYEE BENEFITS

Section 3.05.010 - City of Gustavus benefits policy.

- (a) The city council shall establish and amend, from time to time, by resolution, a written benefits policy, which shall describe various non-wage compensations that the city provides to employees in addition to normal wages or salaries.
- (b) Any change, amendment, or alteration to benefits shall apply to all regular position employees upon the effective date of the change, amendment, or alteration, even if an employee was hired before the effective date of the change, amendment or alteration to the benefits.
- (c) Written notice will be given to regular position employees one (1) month in advance of any change, amendment, or alteration to benefits or to eligibility for benefits.

Section 3.05.020 - Holidays.

Repealed – October 9, 2023

See Policy and Procedure Title 03 Benefits for Eligible Regular Employees

- ~~(a) City of Gustavus workplaces will be closed on the holidays listed below:~~

New Year's Day	January 1
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11 (or as observed)
Thanksgiving	Fourth Thursday in November
Day after Thanksgiving	
Christmas	December 25

- ~~(b) The City of Gustavus will grant paid holiday time off to all eligible employees. Holiday pay will be calculated based on the employee's straight time pay rate as of the date of the~~

~~holiday. Paid time off for holidays will not be counted as hours worked for the purposes of determining overtime. Regular position employees will not receive compensation for a holiday that occurs on a day that the employee is on an unpaid leave of absence.~~

- ~~(c) For city employees whose normal work week is Monday through Friday, if a city observed holiday falls on a Saturday, the holiday will be observed on the previous Friday, and if a city observed holiday falls on Sunday, the holiday will be observed the following Monday. For city employees working on Saturday, if the city observed holiday falls on Saturday, it will be observed on that day. All city workplaces will be closed on Sunday.~~

~~(Ord. of 2-2-2015)~~

Chapter 3.06 - TIMEKEEPING/PAYROLL

Section 3.06.010 - Timekeeping.

- (a) Nonexempt employees shall accurately record the time they work each day.
- (b) Altering, falsifying, or tampering with time records may be cause for disciplinary action up to and including termination of employment.
- (c) Employees will sign their time records at the end of each pay period to certify the accuracy of all time recorded. Time sheets also may be sent electronically. The supervisor will review and initial the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

Section 3.06.020 - Overtime (nonexempt positions).

- (a) The mayor or an employee's supervisor may require regular position nonexempt full-time employees to work overtime hours if needs cannot be met during regular working hours.
- (b) All overtime work must receive the supervisor's prior authorization. The mayor or immediate supervisor will place a note with the employee's time record documenting the reason for requesting or authorizing overtime work.
- (c) Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour requirements. Overtime pay is calculated at one and one-half (1½) times the employee's regular pay rate. Overtime pay is based on actual hours worked over forty (40) hours per week.
- (d) Paid time off will not be considered hours worked when calculating overtime.

Section 3.06.030 - Pay days and paychecks.

- (a) All employees will be paid monthly by the fourth (4th) business day of the following month. Each paycheck will include earnings for all work performed through the end of the monthly pay period.
- (b) As, and to the extent required by law, the city will make certain deductions, including but not limited to federal income tax withholding, social security and Medicare taxes, and state unemployment tax, from employee's paychecks.

Section 3.06.040 - Employment termination.

Termination of employment may be by resignation, discharge or layoff.

Chapter 3.07 - WORK CONDITIONS AND HOURS

Section 3.07.010 - Workplaces and work schedules.

City employees shall report to the workplace assigned by the mayor, city administrator or their supervisors at the times and on the schedules determined and designated by the mayor or their supervisors.

Section 3.07.020 - Rest and meal periods.

- (a) Each workday, employees will be provided with two (2) each fifteen-minute rest periods per eight-hour work shift. To the extent practical rest periods will be in the middle of work periods. Rest periods are counted and paid as time worked, and employees must not be absent from their workstations beyond the allotted rest period time.
- (b) Supervisors will schedule meal periods to accommodate operating requirements. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for the time.

Section 3.07.030 - Training.

- (a) The City of Gustavus may require an employee to attend a training or other educational program to acquire, refresh, or upgrade skills relevant to their job.
- (b) Employees may request city financial support to attend conferences or training workshops sponsored by institutions or professional organizations. The subject matter to be presented must relate directly to the employee's position and must provide a benefit to departmental operations. The above will not preclude an employee from requesting vacation time or leave of absence without pay to attend any conference or training of his/her choice; provided that the city reserves full and absolute discretion to grant or deny such request.
- (c) Each employee attending an approved training or other educational program shall submit a written statement stating the benefit of the training to the city and shall provide an itemized estimate of reimbursable out-of-pocket expenses that the employee anticipates incurring to attend the training. In most cases these expenses will be anticipated in the annual work plan and included in the department budget.
- (d) The employee's application will be reviewed by the mayor or city administrator, who will grant or deny permission for the employee's participation in the conference or training workshop that is paid for by the city or for which the city will approve use of vacation or leave of absence without pay.

Section 3.07.040 - Travel expenses for authorized business or training.

- (a) The City of Gustavus will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the mayor or city administrator.
- (b) When approved, the actual costs of travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by the city. Employees are expected to limit expenses to reasonable amounts pursuant to the small procurement under \$10,000 policy and procedure.

Section 3.07.050 - Unpaid leave.

- (a) Unpaid leaves of absence may be granted to regular position employees on a case-by-case basis at the discretion of the mayor. The duration and reason for the absence will be documented in writing and signed by both the mayor and the employee.
- (b) Failure of an employee to return from any leave without pay on or before the designated date without prior notice by the employee and approval by the mayor may be considered cause for termination and the denial of reemployment with the city.
- (c) An employee on an unpaid leave of absence is not eligible for holiday pay and will not accrue paid-time-off during the period of unpaid leave.

Section 3.07.060 - Smoking, drug and alcohol use.

- (a) In keeping with the intent of the City of Gustavus to provide a safe and healthy work environment, smoking is prohibited throughout the workplace. This policy applies equally to all employees, elected officials, volunteers, customers, visitors, and others at city workplaces.
- (b) No employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs, while conducting city business. The legal use of prescribed drugs is permitted on the job only if the medical prescription is current, the use of the prescribed drugs is consistent with the medical prescription, and if such use does not impair an employee's ability to perform the functions of the job efficiently, safely and effectively.
- (c) Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment.

Chapter 3.08 - EMPLOYEE CONDUCT AND WORK RULES

Section 3.08.010 - Standards of conduct.

- (a) City employees shall abide by the law.
- (b) Employees are responsible for proper conduct in the maintenance of production and service standards, use of work time; cooperation with supervisors and other employees; use of city equipment and materials, respect for other employees and their property, conformance with lawful dress codes and appearance standards, and the protection of confidential information.
- (c) Any person holding a city position as an employee or as a volunteer, shall employ a respectful, professional manner.
- (d) Employee behavior that may result in disciplinary action, up to and including termination of employment, may include, but not be limited to:
 - (1) Theft or inappropriate removal or possession of city property;
 - (2) Falsification of timekeeping records;
 - (3) Working under the influence of alcohol or illegal drugs;
 - (4) Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace while on duty or while operating employer-owned vehicles or equipment;
 - (5) Fighting or threatening violence in the workplace;
 - (6) Boisterous or disruptive activity in the workplace;
 - (7) Negligence or improper conduct leading to damage of employer or customer property;
 - (8) Sexual or other unlawful or unwelcome harassment;
 - (9) Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace;
 - (10) Excessive absenteeism or any absence without notice;
 - (11) Unsatisfactory performance or conduct;
 - (12) Breach of confidentiality;

(13) Violations of conflict of interest policies as set forth in Title 2, as amended.

Section 3.08.020 - Attendance and punctuality.

- (a) To maintain a safe and productive work environment, the city requires employees to be reliable and to be punctual in reporting for scheduled work. The city requires employees to notify their supervisor as soon as possible in advance of the anticipated tardiness or absence.
- (b) Failure to provide notification in advance of anticipated tardiness or absence may subject an employee to disciplinary action up to and including termination of employment.

Section 3.08.030 - Return of property.

Employees are responsible for all city property, including but not limited to tools, equipment, vehicles, machinery, books, papers, documents including digital documents, materials, or other written information issued to them or in their possession or control. All such city property must be returned by employees to their supervisor, the mayor or the city clerk on or before an employee's last day of work.

Section 3.08.040 - Solicitation.

Employees may not solicit or distribute literature relating to non-city organizations, activities, or events in, on, or at any workplace during working time unless approved by the mayor, city administrator, or department supervisor.

Section 3.08.050 – Computer, e-mail, Internet, social media, and telephone usage

All use of the city's computers and related software, including use for composing, sending, receiving and reviewing e-mail messages or accessing the Internet, shall be limited to city business only. Likewise, the use of telephones, facsimile machines or any similar devices or services shall be limited to city business only.

City employees may use government property only as authorized. Employees may occasionally use City landline telephones for personal calls when they are necessary, provide a benefit to the City, and do not result in any additional costs to the City. Such calls are deemed to be in the interest of the City to the extent they enable employees to remain at work, thereby increasing government efficiency. Personal phone calls may not adversely affect the performance of official duties or the employee's work performance, must be of reasonable duration and frequency, and could not reasonably be made during non-duty hours.

It is important to note that any email on any City of Gustavus device system may become an official record. Employees have no right to privacy for email transmissions, the City may be required to release employee emails pursuant to court, legal, or Congressional orders.

The City has an overriding interest and expectation in deciding what is “spoken” on its behalf on social media sites. To address the fast-changing landscape of the Internet and the way

residents communicate and obtain information online, social media use by city representatives shall be conducted according to the Social Media Policy and Procedure.

Violations of this section shall be a cause for disciplinary action, up to and including termination.

Section 3.08.060 - Sexual harassment.

The City of Gustavus does not and will not tolerate sexual harassment involving city employees. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual harassment shall be a cause for disciplinary action, up to and including termination.

Section 3.08.070 - Workplace violence policy.

The City of Gustavus does not and will not tolerate workplace violence. Workplace violence includes acts or threats of physical violence, including intimidation, harassment or coercion, which involve city employees. Workplace violence includes, but is not limited to:

- Threat or actual physical or aggressive contact.
- Threat or actual destruction of city or an individual's property, including acts of sabotage.
- Harassing or threatening telephone calls, e-mails or faxes.
- Possession, use, threat of use, or brandishing of a gun, knife or other weapon of any kind.
- Stalking.
- Veiled threats of physical harm or similar intimidation.

Workplace violence shall be a cause for disciplinary action, up to and including termination.

Section 3.08.080 - Non-retaliation policy.

It is the policy of the city to prohibit the taking of any adverse employment action in retaliation against those who in good faith report or participate in investigations into complaints of alleged violations of local, state or federal law for that reporting or participation.

Any violation of the city's non-retaliation policy involving city employees may be a cause for disciplinary action, up to and including termination.

Section 3.08.090 - Progressive discipline.

- (a) The city council may establish and amend, from time to time, by resolution, a written progressive discipline policy, which shall describe the steps to be taken to address disciplinary problems. To ensure that the city administers employee discipline in an equitable and consistent manner, the city council hereby establishes the following progressive employee discipline policy.
- (b) Progressive discipline means that, with respect to most disciplinary problems, these steps will normally be followed: a first offense may call for a verbal warning; a next offense may be followed by a written warning; another offense may lead to a suspension; and, still another offense may lead to termination of employment. The city, in its sole discretion, may bypass one (1) or more steps in the progressive disciplinary procedure. Nothing herein is intended to, or shall, change the city's right to terminate any employee at will, any time,

with or without cause, regardless of which, if any, lesser discipline steps have been used or not used or that might otherwise be applicable.

- (c) Certain types of employee problems are serious enough to justify immediate suspension, or, in extreme situations, termination of employment, without going through the usual progressive discipline steps.
- (d) Each disciplinary action shall be documented in a memorandum signed by the employee and supervisor and placed in the employee's personnel file.

Section 3.08.100 - Grievance procedure.

- (a) The City of Gustavus desires to resolve fairly and promptly employee complaints arising in or relating to the workplace. Accordingly, employees who have a complaint relating to wages, hours or working conditions are required to follow this three-step grievance procedure.
 - (1) *Step 1. Informal discussion.* The aggrieved employee or group of employees shall orally present the grievance to the immediate supervisor within three (3) working days of its occurrence, not including the day of the occurrence. The supervisor shall give his/her oral reply within five (5) working days of the date of presentation of the grievance, not including the date of presentation.
 - (2) *Step 2. File written grievance.* If the grievance is not resolved in step 1, the employee or group of employees shall reduce the grievance to writing. The grievance shall be dated and signed by the aggrieved employee or group of employees and shall be presented to the mayor within five (5) working days after the supervisor's oral reply is given, not including the day the answer is given. If the employee, or group of employees, does not file the grievance in writing within five (5) working days after the supervisor's oral reply as provided in step 1 of the grievance procedure, the city will deem the grievance resolved. The mayor shall reply in writing to the grievance within ten (10) working days of the date of the presentation of the written grievance, not including the day of the presentation.
 - (3) *Step 3. Appeal to the city council.* If the grievance is not resolved in step 2, the employee or group of employees shall present the written grievance along with all pertinent correspondence, records and information accumulated to date to the city council, which will review and consider the grievance, meeting in executive session when appropriate. If the employee, or group of employees, does not present the grievance to the city council within ten (10) working days after the mayor's written response as provided in step 2 of the grievance procedure, the city will deem the grievance resolved or waived. The city council shall inform the employee of its decision within fifteen (15) working days of receipt of the written grievance and related materials and forward a copy of its written response to the mayor for placement in the employee's personnel file. The city council's decision will be final.
- (b) The employee or group of employees may discontinue the grievance procedure at any step.

Section 3.08.110 - Volunteers.

- (a) No employee-employer relationship is created through service on an advisory committee or board.
- (b) Advisory committees and boards shall not have supervisory oversight of city employees.

Section 4. Effective Date. This ordinance becomes effective upon its adoption by the Gustavus City Council.

Date Introduced: *Sept 11, 2023*

Date of Public Hearing: *October 9, 2023*

PASSED and **APPROVED** by the Gustavus City Council this _____ day of _____, 2023.

Mike Taylor, Mayor

Attest: Liesl Barker, City Clerk